IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

DISTRICT:

CIVIL APPLICATION NO. 587 OF 2006

IN

SECOND APPEAL (St.) NO. 5756 OF 2006

Office Notes,Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's Orders

Mr. Salil Ray for the Applicant.

None for the Respondents.

CORAM: S.B.DESHMUKH, J.

DATE :12TH OCTOBER, 2006

P.C.:

Heard learned Counsel for the Applicant. None appears for the respondents. Perused the office note showing that the service on respondent no.2 be treated as served since respondent no.2 refused to accept the notice. Respondent no.2, therefore, is to be treated as duly served with the notice of this Court.

2. The applicant, has explained the delay of 505 days, occurred in filing the present second appeal in this Court. It is stated in paragraph 7 of the civil application that the applicant is belonging to nomadic tribe. The applicant is moving around for collection of food and herbal in the forest. The applicant has no fixed place of residence. The applicant was not able to incur expenses for filing of the appeal in this Court. The explanation tendered by the applicant, in the absence of any reply, controverting the statements made, is acceptable. I am satisfied that delay of 505 days is properly explained and is bonafide.

3. In the result, delay of 505 days occurred in filing the present second appeal in this Court is condoned. Civil Application, accordingly, is allowed and disposed of.

Sd/-

(S.B.DESHMUKH, J.)

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Mr. Salil Ray for the Applicant.

None for the Respondents.

CORAM: S.B.DESHMUKH, J.

DATE :12TH OCTOBER, 2006

P.C.:

Heard learned Counsel for the Applicant. Perused the judgment of the trial Court.

2. The suit filed by the original plaintiff for specific performance of contract and perpetual injunction is allowed by the trial Court. The Judgment and Decree is also confirmed

by the first appellate court. From the record, it appears that the appellant has purchased the suit property from respondent no.1, somewhere in the year 1983. The appellant / defendant no.1 claims to be in possession of the suit property. Prima facie, I am satisfied that the applicant has made out a case for grant of ad-interim relief in favour of the applicant.

3. Rule, returnable on 7th December, 2006.

4. In the meanwhile, there shall be ad-interim relief in terms of prayer clauses (a) and (b) of the civil application till 12th December, 2006.

Sd/-

(S.B.DESHMUKH, J.)